

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CHERRI WALTER, a single person,

Plaintiff,

v.

EDWARD DAY and "JANE DOE" DAY,
husband and wife, and the marital community
composed thereof; TERRY DAVENPORT
and "JANE DOE" DAVENPORT, husband
and wife and the marital community
composed thereof; THE CITY OF
SHELTON POLICE DEPARTMENT; and
THE CITY OF SHELTON, a municipal
corporation,

Defendants.

Case No. C07-5100 RBL

ORDER DENYING MOTION FOR
SUMMARY JUDGMENT

THIS MATTER comes before the Court on Defendants' Motion for Summary Judgment [Dkt. #9]. The Court has reviewed the materials submitted for and against the motion, together with the file herein. There clearly exists an issue of material fact that compels the Court to **DENY** defendants' motion. The genuineness of the issue appears doubtful, however.

Plaintiff contends that she was harassed by police officers Edward Day and James Davenport. She claims four contacts with Officer Day from March 2, 2006 through April 6, 2006. (Decl. of Cherri Walter, Dkt. #18). The third and fourth contacts form the basis of this lawsuit. She claims Police Chief Davenport participated with Officer Day in the third contact. (Decl. of Cherri Walter, Dkt. #18).

Plaintiff alleges that she is a victim of police harassment. She claims that she was repeatedly stopped, searched and accused of being an absconder with three felony warrants for her arrest. She asserts that the police knew she was not the person they claimed she was and that her constitutional rights were violated as

1 a result of the unjustified search and seizure. She also claims that the third and fourth contacts resulted in
2 plaintiff being assaulted. (Complaint, Dkt. #1).

3 Defendants do more than defend their conduct during the third and/or fourth contact with plaintiff.
4 They deny such contacts even occurred.

5 The Court is of the opinion that the discrepancy between the accounts of the parties is more than the
6 result of lapse of memory or simple misunderstanding. Nevertheless, an issue of fact is present and the Court
7 will not grant summary judgment in a case with such a glaring conflict of stories. Rather, the Court will look
8 forward, with interest, to the trial of these issues and will respond appropriately if it is confirmed that one or
9 more parties or witnesses in this lawsuit are perjuring their testimony.

10 Defendants' Motion for Summary Judgment [Dkt. #9] is **DENIED**.

11 **IT IS SO ORDERED.**

12 Dated this 19th day of November, 2007.

13
14 
15 RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE